IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6689 of 2005

Between:

1 Rowthi Paparao, s/o Surya Rao,
R/o Sankhavaram, Pedavalavari Veedhi, Sankhavaram Mandal,

East Godavari District.

2 Rowthi Satyaveni, d/o Surya Rao,
R/o Sankhavaram, Pedavalavari Veedhi, Sankhavaram Mandal,

East Godavari District.

3 Rowthi Parvathi, w/o Manikyam,
R/o Sankhavaram, Padavalavari Veedhi, Sankhavaram Mandal,

East Godavari District.

..... PETITIONERS

AND

1 The Mandal Revenue Officer, Shankavaram Mandal, East Godavari District.
2 The Revenue Divisional Officer, Peddapuram, East Godavari District.
3 Executive Engineer, Panchayat Raj, Kakinada, East Godavari District.
4 Deputy Executive Engineer, Panchayat Raj, Kathipudi, Sub Division, East Godavari District.
5 The Station House Officer, Annavaram P.S., Annavaram, East Godavari District.
6 Assistant Engineer, Panchayatraj, Kathipudi, Shankavaram mandal, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction more particularly one in the nature of writ of

mandamus declaring the action of the respondents to take away the lands of the petitioners to an extent of Ac.1.84 cents covered by survey No.116/1C situate in Mandapam Village in Shankavaram Mandal, East Godavari District without any need firstly and without initiating land acquisition proceedings to acquire our land possessed by the 1st petitioner to an extent of Ac.0.90 cents, Ac.0.75 cents of the 2nd petitioner and Ac.0.19 cents of land of the 3rd petitioner without following due process of law is illegal, arbitrary, capricious without jurisdiction and in violation of principles of natural justice and also in violation of Articles 21 and 300A of Constitution of India and consequently to direct the respondents not to grab the lands of the petitioners for laying road which is not a need and if it is in need to acquire the lands of the petitioners and to pay compensation and to follow due process of law or to pass any other order or orders.

Counsel for the Petitioners: SMT.N.(P).ANJANA DEVI, SATYANARAYANA

Counsel for the Respondent Nos.1, 2 and 5: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent Nos.3, 4 and 6: Mr. D. Srinivas.

This Court at the admission stage made the following :

O R D E R:

Heard the learned counsel for the petitioners on the one hand, and the learned Government Pleader and the learned standing counsel appearing for the respondents on the other hand.

The petitioners seek a Writ of Mandamus declaring the action of the respondents to take away the lands of the petitioners' in extents of Ac.0-90 cents, Ac.0-75 cents and Ac.0-19 cents, respectively, covered by Survey No.116/1C situated in Mandapam Village in Shankavaram Mandal, East Godavari District without any need, without initiating land acquisition proceedings to acquire their lands and without following due process of law as arbitrary and illegal.

It is represented by the learned counsel appearing for both the parties that the issue involved in this writ petition is squarely covered by a decision of this Court in W.P. No. 21198 of 1997 and batch, dated 03-02-1998, wherein the Division Bench while considering an identical question, issued guidelines as under: -

"1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. *If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.*

3. *In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.*

4. *If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.*

5. *In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.*

6. *If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures."*

The learned counsel appearing for the respondents does not dispute the above legal position.

The writ petition is accordingly disposed of directing the respondents not to demolish the structures in question without following the guidelines issued by the Division Bench in common order dated 03-02-1998 in W.P. No. 21198 of 1997 and batch. No costs.

(G. ROHINI,J)

Date:29-03-2005.

ghn

To

1 The Mandal Revenue Officer, Shankavaram Mandal, East Godavari District.

2 The Revenue Divisional Officer, Peddapuram, East Godavari District.

3 Executive Engineer, Panchayat Raj, Kakinada, East Godavari District.

4 Deputy Executive Engineer, Panchayat Raj, Kathipudi, Sub Division, East Godavari District.

5 The Station House Officer, Annavaram P.S., Annavaram, East Godavari District.

6 Assistant Engineer, Panchayatraj, Kathipudi, Shankavaram mandal, East Godavari District.

7 Two CCs to the Government Pleader for Panchayatraj and Rural Development, High Court of A.P., Hyderabad. (O.U.T.).

8 Two CD copies.